

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Kirby et al.** §
Serial No.: **09/692,365** § Group Art Unit: **2154**
Filed: **October 19, 2000** § Examiner: **Patel, Ashokkumar B.**
For: **Method and Apparatus for Dynamic §
Retention of System Area Network §
Management Information in Non-Volatile §
Store** § Attorney Docket No.: **AUS920000629US1**

35525

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Non-Compliant Appeal Brief was received by Applicant stating that "the appeal brief filed on November 18, 2005 is considered non-compliant because "the brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)). The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)). The brief does not contain the items of the brief required by 37 CFR 41.37(c)(1) under the appropriate headings and/or in the order indicated; the following sections are missing: "Evidence Appendix" and "Related Proceedings Appendix". If there are no appendices an indication of "NONE" is required." A copy of the Notice of Non-Compliant Appeal Brief is attached hereto. Also, please find attached a Supplemental Appeal Brief.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In response to the Notification of Non-Compliant Appeal Brief dated November 7, 2006, please reconsider the holding of non-compliance as follows:

REMARKS

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on November 18, 2005, was held defective.

In order to address the Examiner's concerns, a Supplemental Appeal Brief is submitted herewith. It is respectfully submitted that the Supplemental Appeal Brief filed herewith is in compliance with 37 C.F.R. § 41.37. Appellant respectfully requests that the Supplemental Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Date: November 21, 2006

Respectfully submitted,

/Lisa L.B. Yociss/

Lisa L.B. Yociss

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